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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE  
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11 UNITED STATES OF AMERICA,  
12 Plaintiff,  
13 v.  
14 DION VINCENT HOOKS,  
15 Defendant.  
16

Case No. CR16-186RSL

ORDER DENYING  
EMERGENCY MOTION FOR  
TEMPORARY RELEASE  
FROM CUSTODY

17 This matter comes before the Court on defendant's "Emergency Motion for Temporary  
18 Release from Custody." Dkt. # 99. The government opposes defendant's motion on several  
19 grounds. Dkt. # 100. For the reasons articulated below, the motion is DENIED.

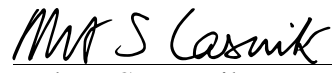
20 Defendant Dion Vincent Hooks is a federal prisoner who pleaded guilty and was  
21 sentenced before this Court, Dkt. ## 63, 94, but is currently in custody at FCI Sheridan, the  
22 Federal Correctional Institution in Sheridan, Oregon. Defendant moves the Court for an order  
23 directing the Bureau of Prisons (BOP) to temporarily release him so he can attend his  
24 grandmother's funeral. In support of his motion, defendant cites 18 U.S.C. § 3622, which grants  
25 BOP discretion to temporarily release certain prisoners for the purpose of, among other things,  
26 "attending a funeral of a relative." *Id.* § 3622(a)(2). As the government accurately points out,  
27 however, § 3622 does not empower federal courts to temporarily release prisoners. The statute  
28 leaves those release decisions solely with BOP. See United States v. Morris, No. CR10-081-

1 LRS, 2012 WL 1579538, at \*1 (E.D. Wash. May 4, 2012) (rejecting defendant’s emergency  
2 request for release, and explaining that § 3622 dictates “[d]efendant must seek relief from  
3 BOP”); United States v. Rayonez, No. CR10-288-LOA, 2010 WL 2690622, at \*1 (D. Ariz. Jul.  
4 6, 2010) (denying motion for temporary release, and noting that § 3622 grants “BOP . . . express  
5 statutory authority to [temporarily] release a prisoner from imprisonment”). Furthermore, BOP  
6 determinations under § 3622 are not reviewable in this Court. Reeb v. Thomas, 636 F.3d 1224,  
7 1226 (9th Cir. 2011) (explaining that substantive BOP decisions under §§ 3621–3624 are “not  
8 reviewable by the district court”). Insofar as defendant challenges BOP’s refusal thus far to  
9 temporarily release him, the Court also lacks statutory authority to review that refusal. See id.

10 To the extent defendant challenges the conditions of his confinement, that action is not  
11 properly brought as a motion in this Court where defendant was sentenced, but should instead  
12 take the form of an action against the custodian holding him. Precedent does not speak clearly  
13 on whether a federal prisoner’s conditions-of-confinement suit may be brought as a habeas  
14 corpus action under 28 U.S.C. § 2241, or should instead take the form of a federal civil rights  
15 action under Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971). See Aamer v.  
16 Obama, 742 F.3d 1023, 1036–38 (D.C. Cir. 2014) (discussing diverging approaches). Either  
17 way, should defendant seek to challenge the conditions of his confinement, the proper venue for  
18 an action against the custodian holding him is the District of Oregon where FCI Sheridan is  
19 located. See 28 U.S.C. § 1391(b); Sholars v. Matter, 491 F.2d 279, 281 (9th Cir. 1974).

20 For the foregoing reasons, defendant’s motion is DENIED.

21  
22 DATED this 19th day of September, 2017.

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25 Robert S. Lasnik  
26 United States District Judge  
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